

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-0673-SLG-E TCEQ ID: RN103160156 CASE NO.: 37582
RESPONDENT NAME: CONNIE ROGERS DBA ALAMO PUMPING BLU SITE

Page 1 of 2

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input checked="" type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: approximately three miles south-southwest of San Juan, and approximately 1/3 mile east of the intersection of South Stewart Road and East Balli Road, Hidalgo County

TYPE OF OPERATION: beneficial land use site

SMALL BUSINESS: ☒ Yes ☐ No ☐ N/A

OTHER SIGNIFICANT MATTERS: One complaint was received. The complainant alleged that a sludge transporter was illegally disposing sludge. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter. The complainant has not expressed a desire to protest this enforcement action or speak at agenda.

COMMENTS RECEIVED: The *Texas Register* comment period expired November 2, 2009. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney: Mr. Benjamin O. Thompson, Litigation Division, MC 175, (512) 239-1297
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019
TCEQ Enforcement Coordinator: Ms. Evette Alvarado, Water Enforcement Section, MC 128, (512) 239-2573
TCEQ Regional Contact: Mr. Jaime Garza, Water Section Manager, Harlingen Regional Office, MC R-15, (956) 430-6030
Respondent: Ms. Connie Rogers, RR 2 Box 74J, San Juan, Texas 78589
Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigations:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: March 3, 2009</p> <p>Dates of Investigation Relating to this Case: March 5, 2009, and March 10, 2009 (site investigation); April 27, 2009 (record review)</p> <p>Date of NOE Relating to this Case: April 17, 2009</p> <p>Background Facts: The EDPRP was filed July 22, 2009, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned. The Respondent failed to answer the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>Current Compliance Status: The Respondent has not yet submitted documentation to certify compliance with the technical requirements. The Respondent owes \$2,940.63 in past-due fees.</p> <p>SLG:</p> <ol style="list-style-type: none"> Failed to obtain authorization for the land application of sewage sludge [30 TEX. ADMIN. CODE § 312.4(d)]. Failed to pay outstanding fees and associated late fees for TCEQ Municipal Sludge Transporter Fee Account Numbers 0800436H and 0800521H for fiscal years 2006, 2007, and 2008 [30 TEX. ADMIN. CODE § 312.9 and TEX. WATER CODE § 5.702]. 	<p>Total Assessed: \$ 2,000</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Due to General Revenue: \$ 2,000</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this Order.</p> <p>Site Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification: <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Immediately, cease all land application of sewage sludge until authorization is obtained. Within 30 days: <ol style="list-style-type: none"> Submit payment for all outstanding fees for TCEQ Municipal Transporter Sludge Fee Account Numbers 0800436H and 0800521H, including any associated penalties and interest; and Submit an administratively complete Application to Register a Site for the Beneficial Use of Domestic Septage. Within 45 days, submit written certification demonstrating compliance.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	20-Apr-2009	Screening	27-Apr-2009	EPA Due	
	PCW	7-May-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	Connie Rogers dba Alamo Pumping BLU Site		
Reg. Ent. Ref. No.	RN103160156		
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	37582	No. of Violations	2
Docket No.	2009-0673-SLG-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Evette Alvarado
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$2,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0.0% Enhancement **Subtotals 2, 3, & 7** \$0

Notes No enhancement due to Average Performer classification.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$4
Approx. Cost of Compliance \$100

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$2,000

OTHER FACTORS AS JUSTICE MAY REQUIRE 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$2,000

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$2,000

DEFERRAL 0.0% Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY \$2,000

Screening Date 27-Apr-2009

Docket No. 2009-0673-SLG-E

PCW

Respondent Connie Rogers dba Alamo Pumping BLU Site

Policy Revision 2 (September 2002)

Case ID No. 37582

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103160156

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No enhancement due to Average Performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 27-Apr-2009		Docket No. 2009-0673-SLG-E		PCW																				
Respondent Connie Rogers dba Alamo Pumping BLU Site		<small>Policy Revision 2 (September 2002)</small>																						
Case ID No. 37582		<small>PCW Revision October 30, 2008</small>																						
Reg. Ent. Reference No. RN103160156																								
Media [Statute] Water Quality																								
Enf. Coordinator Evette Alvarado																								
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>																						
Rule Cite(s)		<div style="border: 1px solid black; padding: 5px;">30 Tex. Admin. Code § 312.4(d)</div>																						
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to obtain authorization for the land application of sewage sludge, as documented during investigations on March 5 and 10, 2009. Specifically, the Respondent allowed the disposal of sewage sludge onto a Beneficial Land Use site without first obtaining the required authorization.</div>																						
Base Penalty				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$10,000</div>																				
>> Environmental, Property and Human Health Matrix																								
OR	<table border="1" style="margin: auto;"> <tr> <td></td> <td colspan="2" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Release</td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>				Harm				Major	Moderate	Minor	Release				Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">0%</div>
		Harm																						
		Major	Moderate	Minor																				
Release																								
Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																					
Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																					
>> Programmatic Matrix																								
	<table border="1" style="margin: auto;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td><div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">x</div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> <td><div style="border: 1px solid black; width: 40px; height: 15px;"></div></td> </tr> </table>				Major	Moderate	Minor	Falsification	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">x</div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">10%</div>												
	Major	Moderate	Minor																					
Falsification	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">x</div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																					
Matrix Notes	<div style="border: 1px solid black; padding: 5px; text-align: center;">100% of the rule requirement was not met.</div>																							
Adjustment				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$9,000</div>																				
				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$1,000</div>																				
Violation Events																								
Number of Violation Events		<div style="border: 1px solid black; padding: 2px; text-align: center;">2</div>	<div style="border: 1px solid black; padding: 2px; text-align: center;">53</div>	Number of violation days																				
mark only one with an x	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																						
	weekly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																						
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">x</div>																						
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																						
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																						
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																						
	single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																						
Violation Base Penalty				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,000</div>																				
<div style="border: 1px solid black; padding: 5px;">Two monthly events are recommended from the date of the investigation (March 5, 2009) to the screening date (April 27, 2009).</div>																								
Good Faith Efforts to Comply		0.0% Reduction		<div style="border: 1px solid black; padding: 2px; text-align: center;">\$0</div>																				
		Before NOV	NOV to EDPRP/Settlement Offer																					
Extraordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																						
Ordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																						
N/A	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">x</div>	<div style="border: 1px solid black; width: 40px; height: 15px; text-align: center;">(mark with x)</div>																						
Notes	<div style="border: 1px solid black; padding: 5px;">The Respondent does not meet the good faith criteria for this violation.</div>																							
Violation Subtotal				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,000</div>																				
Economic Benefit (EB) for this violation		Statutory Limit Test																						
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px; text-align: center;">\$4</div>	Violation Final Penalty Total <div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,000</div>																					
This violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,000</div>																				

Economic Benefit Worksheet

Respondent Connie Rogers dba Alamo Pumping BLU Site
Case ID No. 37582
Reg. Ent. Reference No. RN103160156
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$100	5-Mar-2009	23-Dec-2009	0.80	\$4	n/a	\$4
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to prepare and submit an administratively correct and complete Application to Register a Site for Beneficial Land Application of Domestic Septage. Date required is the date of the investigation. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Screening Date 27-Apr-2009

Docket No. 2009-0673-SLG-E

PCW

Respondent Connie Rogers dba Alamo Pumping BLU Site

Policy Revision 2 (September 2002)

Case ID No. 37582

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN103160156

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 312.9 and Tex. Water Code § 5.702

Violation Description

Failed to pay outstanding fees associated with municipal sludge for TCEQ Municipal Transporter Sludge Fee Account Numbers 0800436H and 0800521H for fiscal years 2006, 2007, and 2008, including associated late fees, as documented during a record review conducted on April 27, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Adjustment \$10,000

\$0

Violation Events

Number of Violation Events

Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$0

No penalty is recommended because penalty and interest will be assessed at the next billing.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	(mark with x)

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent Connie Rogers dba Alamo Pumping BLU Site

Case ID No. 37582

Reg. Ent. Reference No. RN103160156

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

N.A.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

N.A.

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN601567597 Connie Rogers Classification: AVERAGE Rating: 1.75
Regulated Entity: RN103160156 ALAMO PUMPING BLU SITE Classification: AVERAGE Site Rating: 3.01
BY DEFAULT
ID Number(s): SLUDGE REGISTRATION 710674
Location: APPROX .33 MI E OF THE INTX OF S STEWART RD AND
BALLI RD, ON BALLI RD, SW OF SAN JUAN, HIDALGO
COUNTY, TX
TCEQ Region: REGION 15 - HARLINGEN
Date Compliance History Prepared: May 07, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: May 07, 2004 to May 07, 2009
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Evette Alvarado Phone: 239 - 2573

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? Yes
3. If Yes, who is the current owner/operator? OPR Connie Rogers
4. If Yes, who was/were the prior owner(s)/operator(s) ? OWN RUBOTTOM, SYLVIA
5. When did the change(s) in owner or operator occur? 03/21/2003
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
N/A
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CONNIE ROGERS DBA ALAMO
PUMPING BLU SITE,
RN103160156**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

DEFAULT ORDER DOCKET NO. 2009-0673-SLG-E

At its _____ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 5 and 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Connie Rogers dba Alamo Pumping BLU Site ("Ms. Rogers").

The Commission makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Ms. Rogers owns and operates a beneficial land use site ("BLU") located at approximately three miles south-southwest of San Juan, and approximately 1/3 mile east of the intersection of South Stewart Road and East Balli Road in Hidalgo County, Texas (the "Site").
2. The Site involves the management or the disposal of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. During investigations conducted on March 5, 2009 and March 10, 2009, a TCEQ Harlingen Regional Office investigator documented that Ms. Rogers failed to obtain authorization for the land application of sewage sludge. Specifically, Ms. Rogers allowed the disposal of sewage sludge onto a BLU without first obtaining the required registration.
4. During a record review conducted on April 27, 2009, a TCEQ Central Office investigator documented that Ms. Rogers failed to pay outstanding fees and associated late fees for TCEQ Municipal Sludge Transporter Fee Account Numbers 0800436H and 0800521H for fiscal years 2006, 2007, and 2008.

5. Ms. Rogers received notice of the violation in paragraph 3, above, on or about April 22, 2009.
6. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Connie Rogers dba Alamo Pumping BLU Site" (the "EDPRP") in the TCEQ Chief Clerk's office on July 22, 2009.
7. By letter dated July 22, 2009, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Ms. Rogers with notice of the EDPRP. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Ms. Rogers received notice of the EDPRP.
8. More than 20 days have elapsed since Ms. Rogers received notice of the EDPRP, provided by the Executive Director. Ms. Rogers failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.

CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Ms. Rogers is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 5 and 7, TEX. HEALTH & SAFETY CODE ch. 361, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Ms. Rogers failed to obtain authorization for the land application of sewage sludge, in violation of 30 TEX. ADMIN. CODE § 312.4(d).
3. As evidenced by Finding of Fact No. 4, Ms. Rogers failed to pay outstanding fees and associated late fees, in violation of 30 TEX. ADMIN. CODE § 312.9 and TEX. WATER CODE § 5.702.
4. As evidenced by Finding of Fact Nos. 6 and 7, the Executive Director timely served Ms. Rogers with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
5. As evidenced by Finding of Fact No. 8, Ms. Rogers failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER

CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Ms. Rogers and assess the penalty recommended by the Executive Director.

6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Ms. Rogers for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of two thousand dollars (\$2,000.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
8. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Ms. Rogers is assessed an administrative penalty in the amount of two thousand dollars (\$2,000.00) for violations of state statutes and TCEQ rules. The payment of this administrative penalty and Ms. Rogers' compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Connie Rogers dba Alamo Pumping BLU Site; Docket No. 2009-0673-SLG-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Ms. Rogers shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Order, cease all land application of sewage sludge until authorization is obtained; and
- b. Within 30 days after the effective date of this Order:

- i. Submit payment for all outstanding fees for TCEQ Municipal Transporter Sludge Fee Account Numbers 0800436H and 0800521H, including any associated penalties and interest, with the notation, "Connie Rogers, Account Nos. 0800436H and 0800521H" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

- ii. Submit an administratively complete Application to Register a Site for the Beneficial Use of Domestic Septage to:

Applications Review and Processing Team, MC 148
Attention: Customer Information and Applications Processing Section
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 45 days after the effective date of this Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, or other records to demonstrate compliance with Ordering Provision Nos. 2.a and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Ms. Rogers. Ms. Rogers is ordered to give notice of this Order to personnel who maintain day-to-day control over the Site operations referenced in this Order.
5. If Ms. Rogers fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Ms. Rogers' failure to comply is not a violation of this Order. Ms. Rogers shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Ms. Rogers shall notify the Executive Director within seven days after Ms. Rogers becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Ms. Rogers shall be made in writing to the Executive Director. Extensions are not effective until Ms. Rogers receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Ms. Rogers if

the Executive Director determines that Ms. Rogers has not complied with one or more of the terms or conditions in this Order.

8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

AFFIDAVIT OF BENJAMIN O. THOMPSON


STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

"My name is Benjamin O. Thompson. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Connie Rogers dba Alamo Pumping BLU Site" (the "EDPRP") was filed with the Office of the Chief Clerk on July 22, 2009.

I sent the EDPRP to Ms. Rogers at her last known address on July 22, 2009 via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the wrapper sent by certified mail as "unclaimed." The first class mail has not been returned, indicating the respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

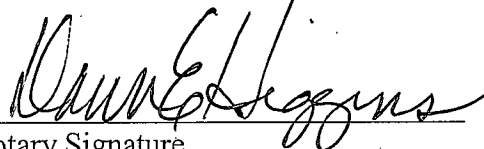
More than 20 days have elapsed since Ms. Rogers received notice of the EDPRP. Ms. Rogers failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference".



Benjamin O. Thompson
Attorney
Texas Commission on Environmental Quality

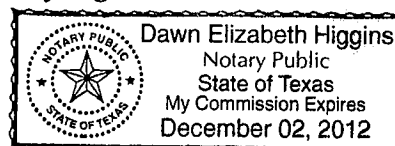
Before me, the undersigned authority, on this day personally appeared Benjamin O. Thompson, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration herein expressed:

Given under my hand and seal of office this 15th day of September, A.D., 2009.



Notary Signature

Notary Stamp



NOTARY WITHOUT BOND